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| 09/134,799      | 08/14/1998  | BRUCE MIHURA         |                     | 8450             |

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07/09/2004

EXAMINER

PSITOS, ARISTOTELIS M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2653

DATE MAILED: 07/09/2004

22

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/134,799

**Applicant(s)**

MIHURA, BRUCE

**Examiner**

Aristotelis M Psitos

**Art Unit**

2653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-59 and 62-74 is/are pending in the application.
- 4a) Of the above claim(s) 2,4-28,31-34,36,62 and 66-74 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,29,30,35,37-59 and 63-65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/11/02 &amp; 4/14/04</u> . | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

Applicant's response of 3/10/2004 has been considered with the following results.

Applicant has introduced new claims 62-74. These claims are drawn to various different systems as first recognized in the first OA of 4/13/00 as well as introducing newly distinct embodiments. The following are so identified:

Claims 63,64,65 are dependent upon claim 45 and as presented drawn to the elected invention of Group II, previously elected without traverse in paper # 3 and are examined along with the previous presented claims.

Claim 62, drawn to the audio cd ability – classified along with claims 4-7, previously identified Group III.

Claims 66-69,71 & 72 drawn to I/O ability, previously identified as Group IV.

Claim 73 drawn to an audio compression, previously identified as Group V.

Claim 74 drawn to an audio signal processing subsystem combined with video (as claimed MPEG audio). Classified in class 386/96.

Newly submitted claims 62,66-74 are directed to an invention that is independent or distinct from the invention originally claimed for the reasons stated above.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits: Accordingly, newly submitted claims 62, 66-74 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Information Disclosure Statement***

The IDS filed 4/15/04 & 4/11/02 are place in the file. However, no copies of the documents listed thereon are associated with the file, hence none of these documents have been considered.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 45-53, 55-59, 63-65 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. Evidence that claim 45 fail(s) to correspond in scope with that which applicant(s) regard as the invention can be found in the reply filed 4/20/01, paper No. 10. In that paper, applicant has stated that the "display substantially only status information", and this statement indicates that the invention is different from what is defined in the claim(s) because such a limitation is not found in claim 45 but in claim 54.

In addition, claims 46-48 are also rejected under 35 U.S.C. 112, second paragraph, as being indefinite for the reasons stated in the previous OA. Applicant's amendment to the claim fails to address the same rejected subject matter in lines 5-6 of claim 46. Dependent claims 47 & 48 do not clarify the above and fall with their respective parent claim. No art is developed against these claims since the appropriate scope of the invention cannot be readily ascertained from the claimed limitations.

### ***Response to Arguments***

No response to this point has been made in the above noted communication. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 58 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s),

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at the time the application was filed, had possession of the claimed invention. The reason presented in the previous OA is repeated. The newly introduced limitation finds no clear support in the specification as originally filed.

***Response to Arguments***

No response to this point has been made in the above noted communication. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 45-57, 59, 63-65 are rejected under 35 U.S.C. 102(a/b) as being anticipated by Kenwood model 1050 MD, or Marantz model DR-700 under 35 USC 102 (a), or anticipated by MDS-JA3ES minidisk recorder under 35 USC 102 (b).

The references are relied upon for the reasons stated in the previous OA.

With respect to the newly introduced claims 63-65, obviously there must inherently be an input port for the incoming signals to permit communication between the incoming signal source(s) and the electronics within the chassis. The incoming audio signals are *either analog or digital*.

***Response to Arguments***

Applicant's arguments filed 3/10/2004 have been fully considered but they are not persuasive. Applicant's argument is purely conclusive. No reasoning as to why the non-volatile random-access storage system of the above identified prior art devices are indeed not "substantially permanently affixed inside the chassis" has been presented. Since the above identified prior art devices have a chassis surrounding their interior components, absence of any such affixation would lead to position that the

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elements inside are unsecured and can flop around. The examiner cannot reach the same conclusion made by applicant.

***Claim Rejections - 35 USC § 103***

4. Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 45 above, and further in view of either Jo or Wyler.

***Response to Arguments***

Applicant's arguments filed 3/10/2004 have been fully considered but they are not persuasive. The claim falls with its respective parent claim. No additional argument was presented and hence no further rebuttal is necessary.

5. Claims 1,37,38,and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Capps et al, Rossmere et al or Taguchi et al, each further considered with Ishii et al and all further considered with DorEI.

The reasons presented in the previous OA are repeated.

***Response to Arguments***

Applicant's arguments filed 3/10/04 have been fully considered but they are not persuasive. In response to the argument focusing upon

a) Ishii et al having removable non-volatile memories, applicant has ignored the non-removal nv memories of the primary references. The reference is relied upon for the reasons of record. That it teaches other limitations is not of moment.

b) displays are positioned on a front side of the chassis.

The examiner maintains his position. The logical conclusion of applicant's argument would place the display in a position not viewable by a user. Although this is possible, it would lessen the ability of a user to interface with the above primary references in a friendly manner (user Unfriendly). The examiner cannot reach applicant's position.

c) With respect to argument focusing on the ability that this "non-volatile random-access storage system is substantially permanently affixed inside the chassis", the examiner concludes that without such

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an affixation, the electronic equipment would flop around inside the housing and hence leading to a defective piece of equipment and inoperable.

The examiner concludes that the primary reference do indeed provide for such claimed substantially permanently affixing ability of the nv ram within the chassis as part of standard manufacturing technique of ensuring all the parts are operable.

d) With respect to argument that the above modification is improper because the base references are drawn to computer systems and hence limiting the display to that of displaying substantially ONLY status information of the system and that regarding the audio information does not persuade the examiner.

With respect to independent claim 1, limiting a complex system so as to perform only desired functions would result from the combination of teachings/systems and reducing the overall cost of the entire system – i.e., limiting the system on ONLY be concerned with audio information is up to a user.

Such ability/modification/teaching does not preclude a subsequently configuring of the display for alternative indications.

6. Claims 3,29,30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Yoshida et al.

The rejection as presented in the previous OA is repeated.

#### ***Response to Arguments***

No response to this point has been made in the above noted communication. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

7. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of the acknowledged prior art – see MPEP section 2144.03 with respect to Official notice.

The rejection as presented in the previous OA is repeated.

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The rejection as presented in the previous OA is repeated.

***Response to Arguments***

No response to this point has been made in the above noted communication. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

8. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of the acknowledged prior art – see MPEP section 2144.03 with respect to Official notice.

The rejection as presented in the previous OA is repeated.

***Response to Arguments***

No response to this point has been made in the above noted communication. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

9. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Ishii et al.

The rejection as presented in the previous OA is repeated.

***Response to Arguments***

No response to this point has been made in the above noted communication. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's



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contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

10. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of either Wyler or Jo.

The rejection as presented in the previous OA is repeated.

***Response to Arguments***

No response to this point has been made in the above noted communication. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

11. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of the acknowledged prior art – see MPEP section 2144.03 with respect to Official notice.

The rejection as presented in the previous OA is repeated.

***Response to Arguments***

No response to this point has been made in the above noted communication. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

12. Claim 45 is rejected under 35 U.S.C. 102(b) as being unpatentable over either Capps et al, Rossmere et al or Taguchi et al.

The reasons presented in the previous OA are repeated as the reference are analyzed therein as stated on pages 3-6 of the OA dated 11/30/00.

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***Response to Arguments***

Applicant's arguments filed 3/10/04 have been fully considered but they are not persuasive.

The argument with respect to the display is not of moment, i.e., no such limitation is found in claim 45.

With respect to the argument focusing upon the affixing limitation, absent such an arrangement the component parts would flop around within the chassis leading to a defective piece of merchandise. The examiner is not persuaded by such arguments.

13.. Claims 49,50,51, 53,55, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 45 above, and further in view of Yankowski.

As far as claim 45 recites positive limitations they are met as analyzed above.

With respect to the ability of a nv-ram system "operable to store one or more play lists", such is well known and taught by Yankowski – see the description with respect to figure 5.

It would have been obvious to modify the reference as relied upon above in paragraph 5 with the additional teaching from Yankowski, motivation is to permit a user to compose his incoming information into his "play list", i.e., a listing of the recorded stored audio information as the user desires. Such ability permits a user to review, modify and add to his previous collection, and hence increase the flexibility of the above system noted in paragraph 5.

With respect to claims:

a) 50, this limitation is considered inherently present in Yankowski, i.e., "continuously store previous received audio information" and the user interface operable to select at least a portion.

b) claims 51 & 53 (duplicate claims) , current musical piece being played – i.e., depiction of the play list.

c) claim 55, play list.

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d) claim 56, the combination permits the audio entertainment system to be operable to "substantially only musical pieces".

***Claim Rejections - 35 USC § 103***

14. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 45 above, and further in view of Hickey.

There is no clear depiction of "current" time being displayed in the above base references as relied upon in paragraph 5.

Hickey teaches in this environment the ability of having such a display – see the description of the touch pad and "start time".

It would have been obvious to modify the base system of references as relied upon in paragraph 5 above with the additional teaching from Hickey, motivation is to provide the user with a time display hence providing the user with a "real" world information to ensure the user is aware of the time.

15. Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 45 as stated in paragraph 12 above, and further in view of Ishii et al.

The teaching from Ishii et al as stated above in paragraph 5 is repeated herein.

It would have been obvious to modify the base systems as stated above in paragraph 12 with the additional teaching from Ishii et al, motivation is to provide the user with a friendly interfacing display ability to focus upon the selected function – i.e., audio ability.

***Response to Arguments***

Applicant's arguments filed 3/10/04 have been fully considered but they are not persuasive. With respect to the argument focusing upon having the display "operable only for displaying audio", as stated with respect to Ishii et al, this reference does provide for a display, of audio information.

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The overall combination of elements provides for a user- friendly display permitting the display of a selected function/ e.g., audio. Such a modification does not preclude the ability of the overall system being reconfigured to display addition/alternative subject matter as selected by the user.

Having the display "operable" so as to display only audio information is met by the above combination of references, i.e., the overall combination of references do teach the "operability" of such a display mode.

13. Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 45 as stated in paragraph 12 above, and further in view of DorEI.

The ability of having the display sized so that the appearance approximates a standard audio equipment is taught by the DorEI reference.

#### ***Response to Arguments***

No response to this point has been made in the above noted communication. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

14. Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 45 above and further in view of Official notice.

The ability/desire/need to appropriately insulate a chassis so as to limit the amount of noise (audio) generated by appropriate cooling devices within the confines of a communication device such as disclosed in Capps is well known and Official notice is taken thereof.

It would have been obvious to modify the base system as stated above in paragraph 5 with the additional ability of practicably acoustically insulating the chassis so as to reduce noise and hence lessen a users distraction.

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15. Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 45 above and further in view of Tanner.

The ability of providing a "mute" button on the face of an electronic communication chassis is taught by Tanner.

It would have been obvious to modify the base system as stated above in paragraph 5 with the additional teaching from Tanner, motivation is to permit the user to selectively silence the audio output as desired for the occurrence of particular events.

16. Claims 63-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 45 above and further in view of Kenwood model VR-209. As noted in the write up with respect to this element, it has a plurality of inputs as recited.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**Hard copies of the application files are now separated from this examining corps; hence the examiner can answer no questions that require a review of the file without sufficient lead-time.**

**Any inquiries concerning missing papers/references, etc. must be directed to Group 2600 Customer Services at (703) 306-0377.**

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Any inquiry concerning *the merits of this communication* or earlier communications from the examiner should be directed to Aristotelis M Psitos whose telephone number is (703) 308-1598. The examiner can normally be reached on M-Thursday 8 - 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aristotelis M Psitos  
Primary Examiner  
Art Unit 2653



AMP